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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,710	11/30/2001	Jean-Pierre Martel	BDL-53	7199
20311	7590	03/23/2004	EXAMINER	
MUSERLIAN AND LUCAS AND MERCANTI, LLP 475 PARK AVENUE SOUTH NEW YORK, NY 10016			YEUNG, GEORGE CHAN PUI	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/998,710	<b>Applicant(s)</b> MARTEL ET AL.	
	<b>Examiner</b> George C Yeung	<b>Art Unit</b> 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 ~~is~~/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 ~~is~~/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/27/2002.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### ***Election/Restrictions***

Upon further reconsideration and in light of applicants' remarks presented on pages 9 and 10 of the Amendment filed on December 3, 2003, apparatus claims 11 and 12 are treated on the merits with the elected process claims 1-10 in this Office action.

### ***Claim Objections***

Claims 1-12 are objected to because of the following informalities:

1. The word " or " recited in the amended claim 1, line 3, is superfluous and it should be deleted.
2. The phrases " on the one hand ", "on the other hand", " the above-mentioned", " for use as such", "in this way", "in the case of", "with the aid of", "which is called ", " in the case of " and " the latter being called " recited in claims 1, 4, 5, 7, 8, 11 and 12 are superfluous and they should be deleted.
3. The word " advantageously " recited in claims 1, 5, 6, 8, 9 and 11 is superfluous and it should be deleted.
4. The words "a treatment" recited in claim 1, line 9, are superfluous and they should be deleted.

### ***Claim Objections- 35 USC § 112***

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention for the following reasons:

1. The terms "particularly", "in particular", "preferably", "such as", "especially" and "for example" recited in claims 1-9 and 11 are indefinite.

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2. There is no antecedent basis for "the physical separation and recovery " as recited in claim 1, line 14.
3. There is no antecedent basis for "the rapid or virtually instantaneous evaporation " as recited in claim 1, line 9, and " the recovery of the destructured pulp" as recited in claim 1, line 19.
4. The limitations "a heating or preheating treatment", "separation" and "recovery " recited in claim 1 are improper since they fail to impart positive manipulative steps to the process claim. The change of these limitations to -preheating- -, -separating- - and -recovering- -, and an amendment to claim 1, line 4, after "comprising" inserting -the steps of- - would obviate this rejection.
5. There is no antecedent basis for "the mesocarp" as recited in claim 3, line 7.
6. There is also no antecedent basis for "this complementary separation" as recited in claim 6, line 7.
7. The phrases "any extraction system" and " it being possible" recited in claim 8, and the phrase "which are intended" recited in claim 12 are indefinite.

***Allowable Subject Matter***

Claims 1-12 are free of the prior art. Claims 1-12 would be allowable if amended to overcome the objections and the rejections under 35 U.S.C. 112 set forth in this Office action.

***Prior Art Citation***

The Goudad patent is cited to show a machine for pitting drupaceous fruits. The Bushman patent is cited to show a method for removing skins and pits from avocados. The Cimperman patent is cited to show a method apparatus for pitting and slicing olives.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Yeung whose telephone number is (571) 272-1412. The examiner can normally be reached on Monday-Friday from 10:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0987.

G. Yeung/af  
March 2, 2004



**GEORGE C. YEUNG  
PRIMARY EXAMINER**